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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/842,028      | 04/26/2001  | Phillip John Black   | 3638-10             | 6910             |

7590 07/09/2002

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EXAMINER

KIM, CHONG HWA

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3682

DATE MAILED: 07/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/842,028

Applicant(s)

BLACK, PHILLIP JOHN

Examiner

Chong H. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the control device coupled to the control shaft and the control device being electromechanical or optical control device as recited in claims 2-6, 11-13, and 15-17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 6 recites the limitation wherein the control device is an optical control device. However, it is not clear and confusing as to how the control shaft of the movable upper portion manipulate or control the optical control device. It is the Examiner's understanding that the optical control

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device does not require mechanical connection (in this case the control shaft) to the controlling element. Neither the specification nor the drawings show adequately how the control lever controls the optical control device.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 4 recite the limitation "the lever profile" in lines 2 and 3, respectively.

There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

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122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-5 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Fournier, U.S. Patent 5,577,417.

Fournier shows, in Fig. 3, a split grip control lever comprising;

a fixed base portion 12;

a movable upper portion 14 that is separately pivotable relative to the fixed base portion 12, wherein the movable upper portion 14 and the fixed base portion 12 define a substantially continuous profile;

comprising a control device 24, 32-38 positioned within the fixed base portion 12, wherein the movable upper portion 14 comprises a control shaft 40 coupled with the control device 38;

wherein the control device is disposed at a substantially central position relative to the lever profile such that a pivot point of the control shaft 40 is centrally disposed relative to the lever profile;

wherein the fixed base portion 12 is fixedly securable to a surface, and wherein the control device is disposed at a position spaced from the surface at a substantially central position relative to the lever profile;

wherein the control device is an electromechanical control device;

wherein the substantially continuous profile is shaped to fit an operator's hand;

wherein the substantially continuous profile is shaped to fit one of an operator's right hand or left hand; and

wherein the movable upper portion 14 is disposed relative to the fixed base portion 12 and sized for manipulation by an operator's thumb and index finger, and wherein the fixed base portion is disposed relative to the movable upper portion and sized to support the operator's hand (see column 3, lines 60-67).

8. Claims 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Fournier, U.S. Patent 5,577,417.

Fournier shows, in Fig. 3, a split grip control lever comprising;  
a fixed based portion 12 securable to a surface of the machinery;  
a control portion 14 disposed adjacent the fixed base portion 12 and movable relative to the fixed base portion, the control portion being separated from the fixed base portion via a split line and being contiguous with the fixed portion to define a substantially continuous profile;  
a control device 24, 32-38 positioned within the fixed base portion, wherein the control portion comprises a control shaft 40 coupled with the control device 38;

wherein the control device is disposed at a substantially central position relative to the lever profile such that a pivot point of the control shaft is centrally disposed relative to the lever profile; and

wherein the fixed base portion is fixedly securable to a surface, and wherein the control device is disposed at a position spaced from the surface at a substantially central position relative to the lever profile.

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9. Claim 14 is rejected under 35 U.S.C. 102(e) as being anticipated by Evert et al., U.S. Patent 6,152,676.

Evert et al. shows, in Figs. 1 and 2, a machine comprising;

- a machine frame 1 supporting at least one movable element;
- a control lever 8 secured to the machine frame 1, the control lever 8 comprising;
- a fixed base portion 11 fixedly secured to the machine frame 1; and
- a movable upper portion 13 that is separately pivotable relative to the fixed base portion

for controlling movement of the at least one movable element, wherein the movable upper portion and the fixed base portion define a substantially continuous profile.

10. Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Ditzig, U.S. Patent 5,350,891.

Ditzig shows, in Figs. 1 and 2, a machine (car) comprising;

- a machine frame (vehicle frame) supporting at least one movable element (side mirror);
- a control lever 10 secured to the machine frame, the control lever 10 comprising;
- a fixed base portion 14, 16, 116 fixedly secured to the machine frame; and
- a movable upper portion 122 that is separately pivotable relative to the fixed base portion

for controlling movement of the at least one movable element, wherein the movable upper portion and the fixed base portion define a substantially continuous profile;

wherein the control lever 10 further comprises a control device 52 positioned within the fixed base portion 16, and wherein the movable upper portion comprises a control shaft 120 coupled with the control device;

wherein the control device is disposed at a substantially central position relative to the lever profile such that a pivot point of the control shaft is centrally disposed relative to the lever profile; and

wherein the control device is disposed at a position spaced from the machine frame at a substantially central position relative to the lever profile.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Control lever having separate movable upper portion.

Jorgensen, U.S. Patent 5,127,284

Biven, III et al., U.S. Patent 5,472,156

Steffen et al., U.S. Patent 5,533,590

Fee et al., U.S. Patent 5,768,947

Griswold et al., U.S. Patent 5,769,363

Control lever having tactile feel feed back.

Tsai, U.S. Patent 5,589,854

Heinsey et al., U.S. Patent 6,148,593

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (703) 305-0922. The examiner can normally be reached on Monday - Friday; 9:00 - 6:00.

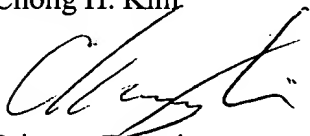


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Chong H. Kim

A handwritten signature in black ink, appearing to read 'Chong H. Kim', written over a horizontal line.

Primary Examiner

July 1, 2002